



## APPEALS AND PROTESTS PROCESSES

### Procedures of Submission and Resolution

### 90-DAY APPEAL PERIOD

The Indiana Department of Natural Resources, in partnership with the Federal Emergency Management Agency (FEMA), is completing and issuing Preliminary Digital Flood Insurance Rate Maps (DFIRMs) and Flood Insurance Studies (FIS) depicting new or revised Base Flood Elevations (BFEs). Upon issuance of the DFIRMs, there is a federally mandated 90-Day Appeal Period for public review of the data. The 90-Day Appeal Period begins on the date of the second publication of a legal notice listing the new or revised BFEs in a local newspaper.

During the Appeal Period, the community or other interested parties may refute the data shown on the Preliminary DFIRMs or FIS report and submit a formal objection in two ways: **Appeal Process and/or Protest Process**.

#### Appeal Process

A flood study that determines BFEs along a stream involves collection of historical and physical data, followed by analyses to determine flow rates and water-surface elevations. Depending on the part of the study that is being challenged, various types of data are required to support an appeal.

The appeal is a formal objection to new or revised BFEs shown on a Preliminary DFIRM or FIS report. BFEs can be appealed if they are shown to be scientifically or technically incorrect. The distinction between “scientifically incorrect” and “technically incorrect” is important because of the differences in the types and amounts of data needed in support of an Appeal Petition.

### Scientifically Incorrect Data

<i>Basis of Formal Appeals</i>	<i>Required Data to Support Appeals</i>	<i>Certified by</i>
Incorrect or inappropriate methodology used in the new study	1. Appeal Petition 2. Explanation as to why alternative hydrologic or hydraulic methodology is more accurate 3. A revised study, including updated hydrologic and/or hydraulic analysis, flood profiles, and floodplain and floodway boundaries, using the alternative methods or data that are believed to be more accurate than those used in the preliminary study	Professional Engineer
Methodology not correctly applied in the new study; i.e., inappropriate or incorrect assumptions in methodology		

### Technically Incorrect Data

<i>Basis of Formal Appeals</i>	<i>Required Data to Support Appeals</i>	<i>Certified by</i>
Insufficient or poor quality data in a new study	1. Appeal Petition 2. Data believed to be more accurate than those used in original hydrologic or hydraulic analysis; documentation for source of the new data 3. A revised study, including updated hydrologic and/or hydraulic analysis, flood profiles, and floodplain and floodway boundaries, using the alternative methods or data that are believed to be more accurate than those used in the preliminary study	Professional Engineer
Mathematical error in a new study	1. Appeal Petition 2. Information that identifies the error and provides the correct calculation	
Measurement error in a new study	1. Appeal Petition 2. Information that identifies the error and provides the correct measurement	
Physical change in the floodplain since the new study	1. Appeal Petition 2. Information that identifies the change and sufficient topographical and/or structural data for an updated hydraulic analysis 3. Certified topographic maps or other certified ground elevation data of greater detail or more recent than those used for the preliminary DFIRM panel in question.	Registered Land Surveyor

### Protest Process

A formal objection to any new or revised information shown on a Preliminary DFIRM or FIS report submitted during the 90-Day Appeal Period that **does not involve BFEs** is considered a protest. Protests generally involve comments regarding the delineation of the updated floodplain and/or floodway boundaries, corporate limits, road names, and road locations.

<i><b>Basis of Formal Appeals</b></i>	<i><b>Required Data to Support Appeals</b></i>	<i><b>Certified by</b></i>
Floodplain boundaries, Floodway boundaries*	1. Protest Petition 2. Certified topographic maps or other certified ground elevation data of greater detail and/or more recent than those used for the preliminary FIRM panel in question 3. Requested changes annotated on the topographic mapping and preliminary FIRM panel.	Registered Land Surveyor or Interested Individual
Corporate limits, Road names, or Road locations	1. Protest Petition 2. Community maps in either digital or paper format showing the current information	Community Official, Registered Land Surveyor, or Interested Individual

\*Note: Dispute of the floodway boundaries may require updated hydraulic modeling and would have to be submitted with proper documentation as an Appeal.

### Submittal of Appeal and Protest Petitions

The formal objection and all supporting data shall be submitted to the **Chief Executive Officer (CEO) of the community** or to the local official designated by the CEO, such as the local Floodplain Administrator. It is then the community's responsibility to forward this information to the Indiana Department of Natural Resources for review and resolution. An interested party or the local community may submit either a formal Appeal or Protest.

The CEO or designated community official should review each formal Appeal or Protest received regarding a Preliminary DFIRM or FIS report to first verify that all supporting documentation is supplied. The community should prepare a statement as to whether the community supports or does not support the formal objection. Any appeal or protest petition received by the community must be forwarded to the Indiana Department of Natural Resources before the completion of the 90-day appeal period.

### Resolution of Appeal and Protest Petitions

An Acknowledgement Letter will be sent notifying the community that an Appeal or Protest has been received by the Indiana Department of Natural Resources. The supporting data will be reviewed to determine whether it constitutes a valid Appeal or Protest and if the formal petition supports a revision. If necessary, additional supporting data may be requested during this stage. Following the review of all submitted data, an Appeal Resolution Letter will be sent to the community CEO explaining the resolution of the Appeal or Protest. A revised Preliminary Transmittal Letter, disseminating a revised Preliminary FIS report and/or DFIRM that incorporates changes made, as a result of the Appeal or Protest, will be sent to the community, if necessary. The community has 30 days to review and comment on the resolution when necessary. At the end of the comment period and after all resolutions are completed, FEMA issues a Letter of Final Determination to the impacted community, publishes the new or revised BFEs in the *Federal Register*, and initiates the final production of the FIS report and DFIRM.

All efforts will be made to incorporate revision requests into the new DFIRM and FIS report. However, without receipt of the necessary data within a reasonable time frame the revision request may require processing after the preliminary FIS report and DFIRM panels become effective. A community's effective DFIRM or FIS report can be updated through the Letter of Map Revision process when all of the necessary data is submitted.